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ABSTRACT

Findings of an audit of the New York State Education Department's oversight of school-district transportation contracting practices are provided in this report. The primary purpose of the audit was to assess the extent to which district officials fostered a competitive environment when contracting for transportation services and the effectiveness with which department officials monitor and promote these practices. Administrative procedures of the State Department of Education and six school districts were audited for the period July 1, 1990, through May 31, 1991. Methodology included document analysis and interviews with department staff, school district officials, and senior officers of selected independent business companies. Findings indicate that the quality of contracting procedures varied by district. However, some district officials followed practices that tended to limit, rather than promote, competition among contractors. Questionable practices involved 1-year contracts, inadequate bidding periods, restrictive specifications, failure to stagger school starting and ending times, and inadequate monitoring of fuel consumption. In addition, department officials did not effectively control pupil transportation costs by failing to properly perform key oversight functions, to use accurate monitoring procedures, and to provide incentives for districts to economize. Nineteen recommendations are included. Appendices contain statements of department officials and the state comptroller's notes. (LMI)

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State of New York
Office of the State Comptroller
Division of Management Audit

STATE EDUCATION DEPARTMENT

SCHOOL DISTRICTS CAN REDUCE PUPIL TRANSPORTATION COSTS BY MILLIONS OF DOLLARS ANNUALLY THROUGH IMPROVED CONTRACTING PROCEDURES

REPORT 91-S-94

U.S. DEPARTMENT OF EDUCATION
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State of New York
Office of the State Comptroller

Division of Management Audit

Report 91-S-94

The Honorable Martin C. Barell
Chancellor
The University of the State of New York
State Education Building
Albany, NY 12234

Dear Chancellor Barell:

The following is our report on the State Education Department's oversight of school district transportation contracting practices.

This audit was performed pursuant to the State Comptroller's authority as set forth in Section 1, Article V of the State Constitution and Section 8, Article 2 of the State Finance Law.

Office of the State Comptroller
Division of Management Audit

January 15, 1992

Executive Summary

State Education Department — School Districts Can Reduce Pupil Transportation Costs By Millions of Dollars Annually Through Improved Contracting Procedures

Scope of Audit

School district officials are responsible for arranging student transportation to and from school, and for deciding which mode of transportation is most appropriate. The primary choices are to contract with private bus companies, to operate a district-owned bus fleet, and/or to provide students with passes or tokens to use public transportation.

The State Education Department's Bureau of Educational Management Services reviews and approves transportation contracts and bus purchase applications submitted by the school districts. The Department, under the Education Law, reimburses school districts for 90 per cent of allowable transportation costs. For the 1990-91 school year, the Department distributed nearly $918 million in transportation aid to school districts, of which $450 million was for contracted bus services.

Our audit addressed the following questions:

- Do school district officials promote competition and follow good business practices in contracting for pupil transportation services?

- Does the State Education Department effectively monitor and actively assist school districts in contracting for pupil transportation services?

Audit Observations and Conclusions

The total cost of transporting elementary and secondary students to and from school, including costs allowable for State aid and non-allowable costs, well exceeds $1 billion annually. Our review of one aspect of pupil transportation, i.e., contracted bus services, indicates that transportation costs can be reduced by millions of dollars annually without impairing quality or safety. Accomplishing these savings will require both school district and Education Department officials to improve in several key areas.

More school district officials must foster an open and competitive environment for selecting contractors to provide transportation services, and they must improve their contracting procedures. Education Department

officials must do a better job of identifying practices that directly or indirectly inhibit competition and should become actively involved in promoting efficiency in school district transportation operations.

As a general rule, a healthy competitive environment ensures the lowest prices for goods and services. Yet, we found school district officials often do not encourage competition for pupil transportation services and sometimes discourage it by engaging in poor or questionable business practices. At the school districts we visited, most of the large transportation contracts were let on the basis of a single bid submitted by the same contractor who previously provided the service. In our judgment, this outcome is the result of questionable contracting procedures. For example, we found that school district officials usually award one year contracts rather than multiple year contracts, and then they extend them indefinitely. While legal, this practice does not encourage competition and it favors incumbent contractors. Additionally, we found school district officials give contractors too little time to respond to bid requests and often include unnecessarily restrictive clauses in the bid specifications, thereby inhibiting competition. In general, we believe the comfort apparently derived by school district officials from dealing with the same contractor year after year does not justify the higher costs of contracts obtained without meaningful competition. (See pp 5-9)

Education Department officials have not effectively controlled pupil transportation costs. Bureau of Educational Management Services staff do not evaluate school district bus routing schedules to ensure they have been designed to minimize costs. Also, we found that Bureau staff approved transportation contracts that contained restrictive clauses and that violated Department regulations for timely bid advertising. The Bureau's failure to identify these conditions may have contributed to the absence of competition on the contracts. Further, the Bureau's procedures for assessing the reasonableness of transportation contract costs are based on faulty methodology and unreliable data. (See pp 15-18)

Department management also has not actively promoted cooperative efforts among neighboring school districts or cost saving initiatives such as staggered school starting and ending times. One such initiative, staggered school starting and ending times, is projected to save the New York City school system $20-$25 million over a five year period. Additionally, the availability of State aid equal to 90 percent of allowable transportation costs provides little or no incentive for school district officials to economize. We observed that when school district officials have undertaken cost saving initiatives, they were generally only in response to actual or proposed cuts in State aid. (See pp 11-12, 18-20)

Comments of Department Officials

State Education Department officials generally agreed with our recommendations and indicated they would instruct and encourage school district officials through publications, conferences, and workshops to implement them.

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Introduction

Background

New York State's elementary and secondary education system consists of over 6,100 public and private schools serving about three million students in approximately 720 school districts. Officials of each school district are responsible for using the most efficient and cost effective methods of transporting pupils to and from school. These methods include contracting with private carriers for services, transporting students with district-owned buses, and issuing passes or tokens to students to use public transportation.

With total transportation costs for the 1990-91 school year expected to exceed one billion dollars, the State Legislature appropriated about $918 million in transportation aid to be distributed to school districts for the following purposes:

	Amount	Percentage
Contracted Services	$449,780,000	49%
District-Owned Buses	321,272,000	35
Public Carriers	110,150,000	12
Other Related Costs	36,717,000	4
Total	**$917,919,000**	**100%**

School districts, with the exception of cities, are required by Section 3635, Subdivision 1 of the Education Law to transport all students to and from school who live the following distances from school:

- Students in grades kindergarten through eight who live two miles or more from school, and
- Students in grades nine through 12 who live three miles or more from school.

For all grades, transportation services must be provided up to a maximum of 15 miles, each way. These distances apply to public, private and parochial school students outside of the State's 62 cities. Although school districts within cities are not required to provide transportation services, they may provide any level of service desired. School districts outside cities may provide transportation to students beyond the limits required by law.

The Education Law also requires school districts to provide suitable transportation to and from school for all handicapped students. The law requires the districts to transport handicapped students up to 50 miles, or more, if the Commissioner of Education deems it necessary. There are no minimum distance requirements governing the transportation of handicapped students in order to receive transportation services. At times, door to door service may be provided and a monitor may be assigned to assist the bus driver in transporting handicapped students.

State aid for transportation services is limited to 90 percent of approved transportation costs, as determined by the State Education Department's Bureau of Educational Management Services. In general, all school district costs for transporting regular students living more than 1.5 miles from the school they attend, and virtually all costs of transporting handicapped students are eligible expenses. All transportation costs not approved for State aid are borne by the school district. For example, transportation costs for summer school, field trips and excursions are not eligible for transportation aid funding.

The Bureau of Educational Management Services is responsible for providing guidance to school districts and ensuring that transportation services are provided efficiently, economically and safely. Three professional and six clerical staff in the Bureau are assigned to carry out this responsibility. Some of the specific activities assigned to this staff include:

- Reviewing bus routes and district transportation policies and procedures,
- Providing school bus driver training programs,
- Reviewing transportation contracts for accuracy, completeness, compliance with bidding requirements, nonrestrictive bid specifications, reasonable cost and appropriate supporting documentation,
- Reviewing applications for approval of school bus purchases, and
- Providing consultation services to school districts on student transportation problems.

Most all reviews and approvals are conducted through desk audits at the Department's central office. Only one professional staff person is assigned to conduct routine visits to school district offices. These visits focus on the accuracy of State aid claims, safety-related issues and district-owned bus operations.

Virtually all school districts, including those that operate their own bus fleets, contract for some transportation services. Many school districts have multiple contracts, primarily for transporting handicapped pupils. The most recent statistics compiled by the Bureau, which are for the

1989-90 school year, show that approvals were granted for 3,711 new contracts, 3,795 contract extensions, 1,540 bus purchase applications, 411 routing schedules and 477 expenditure summaries.

Audit Scope, Objectives and Methodology

We audited transportation contract administration procedures at the State Education Department and six school districts for the period July 1, 1990 through May 31, 1991. The primary objectives of our performance audit were to assess the extent to which school district officials foster an open and competitive environment when contracting for transportation services and the effectiveness with which Department officials monitor and promote these practices. We examined bid specifications, contract agreements and documentation supporting bus routes, including the number of students transported. In addition, we interviewed Department staff responsible for overseeing school district transportation contracts, as well as school district officials and senior officers of selected independent bus companies.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations which are included within our audit scope. Further, these standards require that we understand the internal control structure and review compliance with applicable laws, rules and regulations that are relevant to the operations which are included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions and recommendations.

Internal Control Summary

Our consideration of the Department's and selected districts' internal control structure focused on administrative controls, which are defined as the procedures that are concerned with the decision making processes leading to management's authorization of transactions. Specific to the Department, these controls relate to approval of contracts, overseeing of school district procedures and distribution of State aid. Specific to the school districts, these controls relate to bidding and awarding contracts and overseeing contractor services. Our audit identified material weaknesses in these areas which are further described in the sections of this report titled "School District Officials Can Substantially Improve Their Transportation Contracting Procedures" and "Education Department Officials Should Improve Their Oversight and Provide Needed Guidance".

Response of Department Officials to Audit

Draft copies of this report were provided to Department officials for their review and comment. Their comments have been considered in preparing this report and are included in Appendix A.

Within 90 days after the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Education shall report to the Governor, the State Comptroller and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations herein, and where recommendations were not implemented, the reasons therefor.

School District Officials Can Substantially Improve Their Transportation Contracting Procedures

School district officials have primary responsibility for ensuring that pupils are transported in a safe, efficient and cost effective manner. With respect to contracted transportation services, a major objective for school district officials is to obtain needed services at the lowest possible price, consistent with quality and delivery requirements. As a general rule, a properly administered competitive bidding process tends to obtain the lowest prices, while guarding against favoritism, improvidence and fraud in the letting of contracts.

Public advertising of needed services in newspapers or trade journals is an effective way to notify potential bidders and solicit a maximum number of bids. Clear specifications, without unnecessary restrictions, are a key component to obtaining effective competition and producing a contract satisfactory to both parties. Bidders must receive the specifications well in advance of the bid opening to permit them to prepare complete and responsive bids. Amendments to requests for proposals or negotiations for changes subsequent to the bid opening should not be permitted except in emergency or unusual circumstances.

We visited a judgmental sample of six school districts (Troy City School District, Schenectady City School District, Buffalo City School District, Hamburg Central School District, Freeport Union Free School District and Lawrence Union Free School District) to evaluate their transportation contracting procedures. Overall, we determined that the quality of transportation contracting procedures varied widely from district to district. Officials of some school districts generally adhered to State laws and followed good business practices in contracting for pupil transportation services. Others followed practices which tended to limit, rather than promote, competition among transportation contractors. Such restrictive practices increase the cost of contracted transportation services and are indicators that abusive or illegal acts could be occurring.

One Year Contracts

The Education Law authorizes school district officials to award transportation contracts for up to a five year period. The Law also authorizes school district officials to extend such contracts indefinitely, subject to the Commissioner's approval. Education Department officials advised us it is common for school district officials to solicit one year contracts in their requests for bids and to annually extend the contracts for several years. This practice is consistent with our findings. Five of the six school

Previous Audit Shows Competition Reduces Cost

Because of a lack of data, we were unable to calculate the potential cost savings that increased competition for contracted transportation services would bring. However, in an audit of the New York State Office of General Services, where data was available on construction contracts, we found that as the number of bidders increased, the amount of the bids decreased. For example, construction contracts with three or more bidders were 18 percent less costly than contracts with only one bidder. Using this savings factor, the nine transportation contracts we identified in our audit as having only one bidder could have cost $2.7 million less had school district officials encouraged competition and received three responsive bids.

districts we visited have one year contracts for transporting students, some of which have been extended by up to five years.

Although awarding transportation contracts for a one year period and extending them indefinitely is legal, we find that the practice does not promote competition and may actually inhibit it.

Although awarding transportation contracts for a one year period and extending them indefinitely is legal, we find that the practice does not promote competition and may actually inhibit it. Since increased competition tends to result in lower costs, school district officials who do not actively promote competition or who inhibit competition are likely paying more than they should for transportation services. (Sidebar)

We believe school district officials can stimulate competition for pupil transportation services by soliciting multi-year contracts (e.g., three to five years in duration) and by opening contracts for rebidding at the end of each contract term. Multi-year contracts would attract additional bidders. For example, a transportation contractor who declined to bid on a one year contract explained to us that one year contracts are a "major stumbling block" because there is too much risk that start-up costs associated with moving into a new area will not be recovered. Additionally, periodic rebidding of pupil transportation contracts would signal contractors to the existence of an open and competitive market.

Recommendation

1. The Department should encourage school district officials to solicit multi-year contracts as a means of increasing competition and reducing costs.

Inadequate Bidding Period

Neither the Education Law nor the Commissioner's regulations specify the amount of time that school district officials should allow transportation contractors to respond to bid requests. However, Section 103 of the General Municipal Law requires that there be a minimum of five days between bid advertising and bid opening.

We identified instances where school district officials gave contractors only 8 to 27 days to submit their bids. While these time frames exceed the five day minimum and are therefore legal, in our judgment they do not provide contractors with adequate time to properly evaluate detailed contract specifications and prepare responsive bids. Consequently, as the following examples illustrate, this practice gives unfair advantage to incumbent contractors.

The Buffalo City School District has two major transportation contracts; one for transporting regular day students and one for transporting handicapped students. The two contracts were first let in 1981 and have been extended on an annual basis through the 1990-91 school year. (For the 1990-91 school year, the regular day student contract was valued at $8.4 million and the handicapped student contract at $1.6 million.) District officials advertised for bids for these two contracts on July 22, 1981, six weeks before the start of classes on September 1, 1981. The bid opening was held on August 18, which gave contractors just 27 days to submit their bids. When bids were opened, only one contractor submitted a bid on the two contracts - the same contractor who was then providing the district's transportation services.

Similarly, Hamburg Independent School District officials advertised for bids on June 13, 1985 for a $1 million contract to transport regular day students. Bids were opened 15 days later on June 28, 1985, for transportation service beginning two and one half months later in September 1985. Officials awarded the contract to the incumbent contractor, who was the only bidder. On July 27, 1989 Hamburg officials issued a request for bids on a $170,000 contract to transport handicapped students. The bid opening was held just eight days later on August 4, 1989, with transportation service to begin only one month later in September. Again, the contract was awarded to the incumbent contractor, who was also the only bidder. Both of these contracts have been extended through the 1990-91 school year.

Given the prohibitively short time period that these school district officials gave contractors to prepare and submit their bids, it is not surprising to us that the existing contractors were the only bidders on the contracts.

Likewise, Troy City School District officials solicited bids on August 21, 1990 for a $903,000 contract to transport handicapped students. The bid opening was held eight days later on August 29, 1990, with transportation service commencing one week later in September 1990. The only bidder was the incumbent contractor, who was awarded the contract.

Given the prohibitively short time period that these school district officials gave contractors to prepare and submit their bids, it is not surprising to us that the incumbent contractors were the only bidders on the contracts.

However, whatever comfort school district officials may derive from continuing to deal with the same contractors year after year may be more than offset by the higher costs of contracts obtained without competition. Additionally, these practices give the appearance of intent to inhibit competition.

Recommendation

2. The Department should issue regulations providing for a reasonable minimum time period between the date transportation contract bids are advertised and opened.

Restrictive Specifications

Properly drafted contract specifications are a key component to obtaining effective competition and producing a contract satisfactory to both parties. Contract specifications that contain restrictive provisions tend to impede competition and can result in higher costs. Many times, restrictive specifications are written to improperly favor or give advantage to one contractor.

From our review of contract specifications, we identified restrictive clauses relating to bus size, bus driver salaries and location of garage facilities. We believe that such clauses are unnecessary and harmful to competition.

In 1989 Troy City School District officials issued a request for bids on a lump sum contract to transport regular day students. The contract specifications required contractors to use buses with a minimum capacity of 59 passengers. For the following reasons, we find such a provision unnecessarily restrictive. First, it should be left to each individual contractor in formulating his bid to decide the size and types of buses he considers most appropriate to meet the district's student population and routing schedule. To the extent the contractor is not efficient in doing so, it will be reflected in the cost of his bid. Second, such specifications favor contractors who already own buses of the stated capacity. Contractors without such buses either cannot bid or must incur additional costs to acquire buses of the required size. In this instance, we noted that Troy's incumbent contractor was already using buses which met the district's size requirement.

We identified a similar situation in the Freeport Union Free School District. In 1986 district officials requested bids for a $1.2 million contract to transport regular day students and specified that the contractor provide 60-66 passenger buses. Although the specifications allowed other sized vehicles to be used if agreed to by the Board of Education prior to signing the contract, we believe such provisions restrict competition and should be avoided.

Additionally, we found that Troy City School District officials, in their 1989 request for bids to transport regular day students, required that contractors pay their bus drivers at least $7.50 per hour. We believe it is unnecessary to mandate a minimum wage for bus drivers. Each contractor should be left to negotiate an appropriate wage scale for his employees as part of the collective bargaining process. The district's primary concern should be that the contractor employs qualified and reliable bus drivers, which can be ensured by means other than a mandatory minimum wage. In our judgment, additional contract requirements serve only to restrict competition.

The Buffalo City School District's contract specifications for transporting regular day students required contractors to locate their maintenance and service facilities near or within the school district. We see no reason for such a requirement. Contractors should be selected on their ability to provide safe, efficient service at a competitive price, not on the location of their maintenance facilities. Additionally, such provisions give unfair advantage to contractors having facilities within the district.

Recommendation

3. The Department should not approve transportation contracts that contain restrictive specifications.

Other Questionable Practices

Our review of school district contracting activities disclosed several instances of abusive or poor business practices, including district officials making material changes to bid specifications after bids were received, paying costs not provided for in the contract, providing fuel without justification, and failing to obtain price quotations. Practices such as these cause us to question whether school district officials and contractors are dealing at arms length and whether the resulting contracts are in the best interests of district taxpayers.

Officials made material changes to the contract specifications after the bids were opened, and then awarded the contract to the current contractor, who was also the only bidder.

We found that Troy City School District officials made material changes to the contract specifications for transporting regular day students after bids were opened, and then awarded the $1.8 million contract to the current contractor, who was also the only bidder. The changes, which for the most part were favorable to the contractor, extended the contract term from one to four years, reduced the bus drivers' required minimum wage from $7.50 to $7.00 per hour, and waived the required performance bond. In return, the contractor reduced his bid by about $40,000, from $1,798,664 to $1,758,658.

Particularly disturbing to us is the fact that district officials extended the term of the contract with the incumbent contractor knowing that the only other contractor bidding on this contract submitted a "no bid" response because he considered the one year term of the contract too

short. Had the contractor who submitted the no bid response known that the term of the contract was going to be four years instead of one, he may have submitted a bid. By ignoring this contractor's interest in a multi-year contract and not rebidding, Troy City School District officials give the appearance that they are not interested in promoting competition for transportation services.

Additionally, we believe that district officials improperly paid the incumbent contractor nearly $95,000 in escalation costs after the first year of the four year contract. Section 305 of the Education Law permits school districts to extend contracts indefinitely and to pay contractors an annual escalation increase that does not exceed the lesser of the increase in the consumer price index or actual costs. In this case, the specifications called for a one year contract. However, Troy officials negotiated with the contractor and agreed ***prior to signing the contract*** that the school district will "... extend the contract ... that expires June 1990 for three additional years ...". Because there was no contract in place to extend, this action made the contract a four year contract. Generally, two criteria must be met to properly extend a contract: the extension must be made to an existing contract and the extension should occur near the end of the contract term. Since these conditions were not met and the proposed contract does not contain an escalation clause, we conclude that the contractor was not entitled to the additional payment of $94,968 for escalation for the 1990-91 year.

We identified other practices which also raise concern about the relationship between school district officials and their contractors.

...the contractor... provided the District with an additional bus free of charge.

In the Troy City School District, we were informed that the contractor who transports regular day students provided the District with an additional bus free of charge. However, the District's contract with the bus company states that the cost of an additional bus will be determined based on a proration of the original contract price divided by the number of buses. Accordingly, the bus company should have charged the District approximately $32,500 for the additional bus. Given this substantial sum, we question why the contractor did not abide by the terms of the contract and charge the District for the additional bus. The contractor's failure to charge the District for the additional bus raises concerns about the nature of the relationship between the contractor and school district officials.

The Education Law requires school districts to obtain bids and enter into formal contracts for transportation services costing more than $5,000 annually. For services estimated to cost less than $5,000, school districts are expected to obtain at least three price quotes.

In the Freeport Independent School District, we determined that during the 1990-91 school year officials awarded 12 transportation contracts, each valued at between $4,500 and $4,994. We reviewed supporting documentation for four of these contracts and found that district officials

awarded all four to a contractor who was currently doing business with the district, but without obtaining price quotes.

The district's transportation supervisor informed us that these contracts were awarded on an emergency basis, because the need arose just prior to the commencement of school. He further stated that all contracts awarded on an emergency basis are competitively bid if the service is required in the subsequent year. However, we found that district officials awarded three of the four contracts to the same contractor for two consecutive years (1989-90 and 1990-91) without competitive bidding.

Recommendations

4. The Department should not permit material changes to bid specifications after bids have been opened. In such cases, the Department should require that the contract be rebid.

5. The Department should disallow State aid claimed by the Troy City School District for $94,968 in escalation costs for transporting regular day students in the 1990-91 school year.

6. The Department should investigate the circumstances surrounding the Troy City School District receiving an additional bus from its primary transportation contractor at no additional cost, in apparent violation of contract terms.

7. The Department should require school district officials to seek competitive quotations for transportation contracts under $5,000.

Staggering School Starting and Ending Times

The cost of transporting students is affected by a number of factors, including district size, population density, number of students transported, number of school buildings, etc. Some of the factors affecting the cost of transportation can not be controlled by school district officials; however, others can be controlled. For example, officials in some school districts vary the times that the elementary, middle and high schools start and end classes. By doing so, they enable contractors to use fewer buses to transport students, which reduces the overall cost of transportation.

The State Education Department does not have information on the number of school districts in New York State that stagger the times their component schools start and end classes. However, the following examples suggest to us that school districts that do not currently stagger school starting and ending times could significantly reduce transportation costs by doing so.

Through the 1990-91 school year, all schools in the Troy City School District started and ended classes at the same time. Troy's transportation coordinator informed us during our audit that he is considering staggering school starting and ending times beginning in the 1991-92 school year. Troy officials estimate that staggering school hours will save the district at least $300,000 annually.

In the Schenectady City School District, officials began to stagger the starting and ending times of some schools during the 1990-91 school year. District officials informed us they saved approximately $110,000 in the first year. They also indicated that they anticipate additional savings in the 1991-92 school year as they increase the number of schools having staggered start and end times.

...New York City could save an estimated $20-$25 million over a five year period if the school system staggered school starting times.

In addition, the New York City Board of Education, faced with substantial reductions in funding, engaged a consulting firm to identify ways it could restructure operations to be more efficient. The consultant's report, released in May 1991, identified substantial cost savings in the area of pupil transportation. The consultant concluded that New York City could save an estimated $20-$25 million over a five year period if the school system staggered school starting times.

Recommendation

8. The Department should encourage school district officials to stagger school starting and ending times to the extent possible.

Monitoring Fuel Consumption

Some school districts, in an effort to recognize uncertainties in the price of fuel, include a provision in their transportation contracts providing for upward or downward adjustments in each contractor's bid price for fuel. The bid price for fuel is based on two components: market prices for fuel at the time of bidding and standard mileage rates set by the school district for various types of vehicles. Other school districts provide fuel to their contractors based on standard mileage rates. For example, the Troy City School District's bid request for the contract to transport regular day students allowed bidders to base their fuel cost estimates on a rate of 4 miles per gallon (mpg) for gasoline-powered buses and 7 mpg for diesel-powered buses.

Contractors are usually required to document their requests for fuel cost adjustments by providing school district officials with original suppliers' invoices. Additionally, district officials can require contractors to provide further verification of fuel cost increases/decreases and the amount of fuel used.

In the five school districts we visited, we found that district officials are not properly verifying contractors' actual fuel consumption. Rather, dis-

trict officials are paying contractors for their fuel costs based on the standards included in the bid request, e.g., 4 mpg for gasoline-powered buses and 7 mpg for diesel-powered buses. However, these standards are sometimes lower than the actual mileage rates normally achieved by late model school buses. Consequently, school districts may be paying contractors for more than their actual cost of fuel.

To illustrate, using the example of a school district which reimburses the contractor based on a rate of seven miles per gallon for a 66 passenger diesel bus, a one mile per gallon difference can have a significant effect on the amount of fuel consumed by the contractor and the associated cost to the school district. A 66 passenger bus which consumes fuel at a rate of 7 miles per gallon would require 14.3 gallons of fuel to travel 100 miles. At 8 miles per gallon, which is the rate some contractors told us they get for this bus type, fuel use would be 12.5 gallons per 100 miles - a savings of 1.8 gallons. In a contract involving 100,000 miles of driving, this 1.8 mile per gallon difference would yield a $2,250 savings, at a cost of $1.25 per gallon of fuel.

Recommendations

9. The Department should re-evaluate the miles per gallon standard used for various sized vehicles.

10. The Department should review the reasonableness of fuel cost adjustment clauses.

11. The Department should ensure school districts properly verify fuel usage.

Education Department Officials Should Improve Their Oversight And Provide Needed Guidance

The Department ... is in a unique position to both require and encourage school districts to provide pupil transportation services economically and efficiently. However, ... the Department has not adequately fulfilled either of these two roles.

The State Education Department, through its Bureau of Educational Management Services, is in a unique position to both require and encourage that school districts provide pupil transportation services economically and efficiently. However, we determined that the Department has not adequately fulfilled either of these two roles. Department management has allocated very few resources to overseeing pupil transportation, despite the size of this activity and the potential for savings that exist. We identified instances where Bureau staff did not identify violations of law or regulations when approving transportation contracts. We also identified serious weaknesses in the Bureau's cost monitoring procedures used to evaluate district transportation costs. Additionally, because school districts are reimbursed by the State for 90 percent of allowable transportation costs, there is little or no incentive for school district officials to economize. Even in light of this fiscal environment, Bureau staff have not actively encouraged school district officials to economize or promoted cost saving initiatives such as inter-district cooperation. As a result, we believe that many opportunities to reduce transportation costs are being lost or are not recognized.

Key Oversight Functions Are Not Properly Performed

Both the Education Law and the Commissioner's regulations include provisions aimed at promoting the economical and efficient transportation of students. With respect to contracted transportation services, these provisions address such matters as competitive bidding, design of bus routes, restrictive bid specifications and advertisement of bids. Staff of the Department's Bureau of Educational Management Services are responsible for ensuring that school districts comply with all applicable legal and regulatory requirements.

We found that Bureau staff do not perform all reviews required by law and have approved contracts that contained provisions contrary to law or regulation or that were not properly advertised. Consequently, the Bureau's oversight function is failing to promote economical and efficient transportation contracting practices.

Section 3622 of the Education Law requires the Department to plan and approve school district bus routes in a manner to promote maximum operating efficiency. In practice, school district officials and contractors design all bus routes; however, no one from the Department assesses their efficiency. Bureau officials informed us that they do not evaluate

the efficiency of school district bus routes because they do not have sufficient knowledge of each school district to do so.

Route design directly affects transportation costs. Sometimes minor changes in routing can result in considerable cost savings. For example, the Shenendehowa Central School District, which operates its own bus fleet, is considering a plan to reduce the number of bus stops for students in grades 7-12. District officials explained that under the current plan students walked an average of one-tenth to two-tenths of a mile from their houses to the bus stops. Under the proposed plan students would walk about one-tenth of a mile - or 176 yards - farther, with no student walking more than a half mile in total. District officials estimate that eliminating 200 bus stops will save $75,000 to $100,000 a year.

Section 156.1(d) of the Commissioner's regulations states that, "Bid specifications shall not include special requirements relating to buses, drivers, maintenance and service facilities, the exclusive use of buses, or any other matter which tends to restrict competitive bidding." However, our review of transportation contracts identified several examples of restrictive requirements in bid specifications, including restrictions on bus size and features, bus drivers' wages and location of bus maintenance facilities. Yet, Bureau staff did not recognize these restrictive provisions and approved the contracts for State aid funding. We believe that these restrictions contributed to the low level of competition received by the school districts on these contracts.

Bureau staff did not recognize these restrictive provisions and approved the contracts for State aid funding.

Additionally, we found that Bureau staff failed to enforce Section 156.1(b) of the Commissioner's regulations, which requires school district officials to publicly advertise by June 1 for bids for transportation services for the coming school year, which normally begins in early September. However, six of the transportation contracts we reviewed were approved by Bureau staff even though school district officials advertised for bids in late June, July and August, for transportation service to begin the following September. Advertising so close to the beginning of the school year is detrimental to competition and favors incumbent contractors. In fact, the incumbent contractor was the only bidder on each of these contracts, which for the 1990-91 school year ranged in value from $25,000 to over $8 million.

Recommendations

12. The Department should ensure that school district bus routes are designed to promote maximum efficiency.

13. The Department should more closely examine transportation contract documents to ensure that they comply with legal and regulatory requirements.

Cost Monitoring Procedures Need Improvement

The Department's transportation cost monitoring system has two components: a data base, which includes information on transportation costs, students transported, miles traveled, etc. and standard costs, for transportation contracts let by upstate and downstate school districts. Our review of the Department's cost monitoring procedures identified incomplete and unreliable data, weaknesses in the standard cost methodology and a lack of on-site monitoring. These conditions make the Department's present cost monitoring procedures ineffective in identifying inefficient and uneconomical practices in the districts.

The Department's cost monitoring procedures have not been effective in identifying inefficient and uneconomical practices in the districts.

Our efforts to perform comparative analyses of transportation contract data were hindered by a lack of summary data. Key information such as number of contracts, award values, number of students transported, and total miles traveled are not gathered and summarized accurately. Data which is collected and summarized showing cost per pupil for regions and districts is acknowledged by Department officials as unreliable. As such, comparisons among districts are not readily possible.

Department staff develop standard costs for both upstate and downstate school districts by calculating an average cost from a sample of transportation contracts. These standard costs are then compared to all contracts submitted to the Department for approval. Contracts costing more than the standard are challenged by the Department and the school district and contractor involved are required to justify the excess costs.

However, we believe the Department's standard cost methodology is faulty because the costs are reflective of the sample of contracts from which they were drawn. To the extent the sampled contracts were let without competition, contained restrictive clauses, or resulted in uneconomical practices, all of which tend to drive costs up, the standards will reflect these conditions. Hence, they will not be an appropriate measure of the reasonableness of other contracts. Additionally, the Department does not verify the accuracy of cost justifications submitted by school districts and contractors. Instead, it relies on the honesty of the contractors to provide complete and accurate justifications.

No one from the Department routinely visits districts to assess the efficiency and economy of contracted transportation operations.

Another shortcoming in the Department's transportation cost monitoring procedures is the lack of on-site monitoring of school district operations. Currently, the one professional staff person who visits school districts, focuses on the accuracy of State aid claims, safety related issues and district-owned bus operations. No one from the Department routinely visits districts to assess the efficiency of contracted transportation operations. As a result, the Department is unaware of the extent to which inefficient and uneconomical practices exist within the districts.

Recommendations

14. The Department should improve its data gathering capabilities. Key contract data should be summarized and analyzed to highlight unusual cost patterns for further review.

15. The Department should revise its standard cost methodology so that the standards are representative of a cost effective operation.

16. The Department should provide more staff resources to monitoring school district transportation operations. Department staff should conduct more field visits to review school district operations and to verify contractors' claims for excess costs.

The Department Should Promote Efficiency

During the course of our audit, we identified significant variances among school districts in the quality of transportation contracting procedures. We noted a newspaper article which indicated that officials of one school district made decisions concerning pupil transportation based primarily on the availability of State aid rather than on the appropriateness of the services or the inherent need to economize. These conditions indicate to us that the Department should become actively involved in promoting economy and efficiency in school district transportation operations.

In the first section of this report, we highlighted examples of practices that discouraged competition and disregarded the need to economize, including short term contracts with indefinite annual extensions, restrictive specifications and inadequate bid response times. However, our audit also identified contract management practices that were geared to promoting efficiency and controlling costs. We believe the Department should identify good business practices and cost saving techniques developed by school district officials and encourage officials in other districts to adopt them. Following are some examples.

- Officials in the Hamburg and Lawrence school districts develop bid specifications to minimize total costs through a blend of per vehicle and per pupil contracts. With this flexibility, districts can design routes for maximum vehicle use considering the time the vehicle is needed and choose which mix results in the best possible price. Other districts bid all contracts on a per vehicle basis, which does not consider vehicle utilization when adding additional routes. Only a slight increase in transportation needs may require the district to pay for an additional bus.

Cost Saving Through Cooperation

We visited the offices of two contractors on Long Island and found evidence that school districts could reduce transportation costs through inter-district cooperation. Currently most districts do not coordinate with adjacent districts to determine the most cost effective method to transport its pupils; rather, each district acts independently and contracts individually for needed services. We found that substantial savings are possible if adjacent school districts coordinate their transportation needs into a single contract, as opposed to contracting individually for the service. For example, we identified six school districts which individually contracted with the same contractor for selected services at a total cost of $52,073. To provide the needed services to all six districts, the contractor used a 16 passenger van for a period of six hours. By comparison, we identified another district in the same area which contracted for a 16 passenger van for a six hour period at a cost of $31,433. Based on this rate, the six districts could have saved over $20,000 if they had coordinated their transportation needs and sought a single contract.

- The Lawrence school district coordinates with neighboring school districts to transport students to the same private or parochial schools. By coordinating service needs, each school district minimizes its transportation expense by sharing a single vehicle, rather than each district independently paying for two or three vehicles.

- The Hamburg school district has a provision in its largest transportation contract which allows the district to add or delete buses at the same per vehicle cost developed in the contract. Many other contracts require the district to pay a penalty to the contractor when buses are deleted, to compensate for the contractor's related overhead and lost profit.

- In order to provide for unanticipated needs, several districts require transportation contractors to take necessary steps to ensure that adequate service is provided. We found one district specified the number of extra buses that contractors must have available to ensure adequate service. Stipulating the number of extra buses that must be available tends to increase contract costs.

School districts are reimbursed for 90 percent of allowable pupil transportation costs. Virtually all of the costs school districts incur to transport regular day and handicapped students to and from school are allowable for State aid. However, the present reimbursement system contains no

incentives for school districts to economize and no penalties for failure to do so.

The lack of incentives to economize and the resulting need for the Department to become actively involved in promoting economy in pupil transportation is illustrated by the following two examples. In these cases, school district officials made pupil transportation decisions based on the availability of State aid or anticipated reductions in aid. The need to provide transportation services economically and efficiently was apparently not a primary factor.

"If we had paid to walk them to the school, there would be no (State) aid... If we bus them, it's 90 percent reimbursed (by the State)."

Several times a week, the Albany City School District buses three to five parochial school students to speech therapy one city block away from their school. According to a newspaper article, the district's transportation coordinator did not know if consideration had been given to having a district employee escort the students to and from the speech therapy class. In attempting to rationalize busing the students such a short distance, the transportation coordinator stated, "If we had paid to walk them to the school, there would be no (State) aid... If we bus them, it's 90 percent reimbursed (by the State)." Consequently, district officials were willing to incur the additional cost of busing the students because of the availability of State aid.

A Troy City School District official informed us the district was planning to institute staggered school starting and ending times in the 1990-91 school year and estimated that this initiative would reduce annual transportation costs by $300,000. However, the official also informed us that the district decided to stagger school hours because of cuts in State aid proposed in the Governor's 1991-92 Executive Budget. Had the Governor not proposed cuts in aid, the district may not have considered adopting this economical practice.

Recommendations

17. The Department should actively encourage school districts to economize and should communicate to school districts examples of good business practices and cost saving techniques.

18. The Department should encourage cooperative bidding efforts among school districts. School districts which refuse to cooperate should have their State aid reduced accordingly, based on the premise that they are not providing efficient service.

19. The Department should encourage school districts to include reasonable add and delete provisions in their contracts. State aid claims should be reduced accordingly when costs are not reasonable.

Comments of Department Officials

Department officials generally agreed with our recommendations. The officials indicated that they would inform, instruct and encourage school district officials through publictions, conferences, and workshops to implement our recommendations.

The full text of the Department's response to our draft audit report as well as State Comptroller Notes are included on the following pages.

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

EXECUTIVE DEPUTY COMMISSIONER OF EDUCATION
THE NEW YORK STATE EDUCATION DEPARTMENT
ALBANY, NEW YORK 12234

December 18, 1991

Mr. Roland M. Malan
Assistant Deputy Comptroller
Office of the State Comptroller
Albany, New York 12236

Dear Mr. Malan:

In accordance with your request of November 15, 1991, we have reviewed draft audit report 91-S-94 regarding oversight of school district transportation contracting practices. Our comments concerning the findings and recommendations contained in the report appear in Appendix A which is attached. Please note that the comments are listed in the same order as the findings and recommendations in the report, and a report page reference is given for each comment.

If you have any questions concerning the responses, please do not hesitate to contact me.

Sincerely,

Thomas E. Sheldon

Attch.

Appendix A
New York State Education Department Response to
Office of the State Comptroller Draft Audit Report 91-S-94

Executive Summary:

Page 2

- The comments relating to school district visits might be viewed differently if, instead of saying "at the school districts we visited" the actual number was given, i.e. 6 of 718 school districts were visited.

* Note 1

Report:

Page 2

- It was pointed out in our response to the preliminary findings, that the primary function of the field auditor is to ascertain and verify the accuracy of State Aid claims.

* Note 2

Page 6

- A comparison of Office of General Services construction contracts with school district transportation contracts for the purpose of estimating a cost savings is meaningless and very misleading.

* Note 3

- We agree with Recommendation #1. School district officials will be encouraged through Department publications, conferences, and workshops, to solicit multi-year contracts.

Page 7

- Education Law does not require that at least five days shall elapse between bid advertising and the bid opening date. Such a requirement is found in Section 103 of General Municipal Law. Also, the five day requirement applies only to the advertising and bid opening dates; it does not establish a minimum time for submission of bids.

* Note 4

Page 8

- We agree with Recommendation #2. The Bureau of Educational Management Services has instituted a desk-audit procedure of asking school districts to explain why bids were not advertised by June 1, 1991 for 1991-92 school year contracts. Pursuant to Section 156.1 of the Regulations of the Commissioner of Education, if we are not satisfied with a school district's explanation we will instruct the district to rebid the contract for the 1992-93 school year. District officials will be informed, through Department publications, conferences, and workshops, that 1992-93 school year contracts will not be approved by the Commissioner, if they are not advertised by June 1, 1992.

Page 9

- We agree in part with Recommendation #3. However, we do not agree that it restricts competitive bidding when a school district specifies a minimum bus size, although it would be restrictive to specify one particular size. We believe that school district officials are in the best position to know what size vehicle would be most effective, and they generally specify large buses because of the cost effectiveness and flexibility afforded by such vehicles. Just about all private contractors operate fleets which contain only large buses and/or vans, with few mid-size buses being used. Consequently, even if school districts did not specify large buses or vans, these would be the type of vehicles that

* See State Comptroller's Notes, Appendix B

a contractor would generally use. Finally, the cost of operating a large bus is not necessarily greater than the cost of a mid-size bus.

Historically, the Department has approved contracts with special requirements which are intended to enhance pupil safety, pursuant to Section 156.1(d) of Commissioner's Regulations. Section 156.1(d) states that the Commissioner may authorize special requirements which were essential due to special circumstances. School districts that specify a minimum rate of pay for drivers generally do so with the belief that a higher rate of pay will attract a better quality driver, which should lead to increased safety. Consequently, the Department has been sympathetic to such requirements.

School district officials will be instructed, through Department publications, conferences, and workshops, to remove all restrictive clauses from their bid specifications. The word "restrictive" will be defined and examples given. School districts will be informed that the Department will not approve contracts with restrictive clauses. Department field auditors will review contracts for such clauses during their visits to school districts.

* Note 5

The audit report is based on a review of the contracts of only six school districts. We agree with you on only one of your findings relative to restrictive clauses, that being the requirement that a maintenance facility be located near or within the school district. The Department reviews 3500-4500 contracts annually. Based on all of the contracts that we have reviewed, we believe that restrictive clauses are uncommon.

Page 11

- We agree with Recommendation #4. School district officials will be informed, through Department publications, conferences, and workshops, that contracts in which the specifications have been materially changed must be rebid. The Department does review contracts for material changes to the specifications and will continue to do so. However, desk-audit staff limitations and the need for legal advice in determining whether some changes are material limit our ability to identify each such change. Department field auditors will review contracts for material changes during their visits to school districts.

- We cannot respond to Recommendation #5 until the Department's Counsel determines whether a contract existed at the time the parties agreed to an extension. There is no legal requirement that the extension agreement occur near the end of the contract term, although it would be a good business practice to do so. If it is determined that a contract existed when the extension occurred, a disallowance of the escalation costs would not be warranted.

- We agree with Recommendation #6. However, the Department was not aware of such allegations prior to reading the draft report. We will contact the Troy City School District officials to obtain information on

* See State Comptroller's Notes, Appendix B

the reported circumstances, and then we will determine whether followup action is warranted.

- We disagree with Recommendation #7. While we agree that it is a good business practice to obtain at least three price quotes for contracts estimated to cost less than $5,000, we know of no statute or regulation that contains such a requirement. There are numerous school districts in the rural areas of our state that would find it very difficult to obtain three price quotes because of a limited number of contractors. Even in the more populated areas, three price quotes could be difficult to obtain after the school year had begun, because many contractors would have fully contracted their fleets.

* Note 6

Page 12

- We agree with Recommendation #8. School district officials will be encouraged, through Department publications, conferences, and workshops, to stagger school starting and ending times to the extent possible.

Page 13

- We agree with Recommendation #9. The Department will re-evaluate the miles per gallon standard used for various size vehicles by surveying the operators of district-owned and contracted school bus fleets.

- We agree with Recommendation #10. The Department will seek advice from the Tri-Agency Committee and the Commissioner's Advisory Committee relative to the reasonableness of fuel cost adjustment clauses.

- We agree with Recommendation #11. School district officials will be instructed, through Department publications, conferences, and workshops, to properly verify fuel usage. Department field auditors will review the fuel verification process during their visits to school districts.

Page 15

- We agree with Recommendation #12. The Department has received a grant from the Governor's Traffic Safety Committee to develop, in conjunction with the Madison-Oneida BOCES, a manual for school officials to develop and evaluate efficient school bus routes. That manual will be distributed at regional seminars which will be held in the spring to assist school district officials in school bus routing. The Department does not have adequate staff to analyze the bus routes of each school district in the state. Such an analysis would take two or more days to complete in an average size district, using maps with pupil locations while working in cooperation with a school district official.

- We agree with Recommendation #13. The Department would like to more closely examine contract specifications, but would need additional staff to do so. Also, we previously stated in our response to

Recommendation #3 that we believe, based on the thousands of contracts that we have reviewed, that restrictive clauses are uncommon.

Page 17

- We agree with Recommendation #14. The Bureau is planning to develop and implement a system for collecting, analyzing, and summarizing transportation contract data.

- We agree with Recommendation #15. The Bureau is planning to develop and implement a revised procedure for testing the reasonableness of contract costs.

- We agree with Recommendation #16. The Bureau will continue to seek additional staffing for the purpose of providing technical assistance to school districts and field monitoring, consistent with budget and staff size constraints.

Page 19

- We agree with Recommendation #17. School district officials will be encouraged, through Department publications, conferences, and workshops, to employ good business practices and cost saving techniques. Examples of such practices and techniques will be given.

- We agree in part with Recommendation #18. The Department will encourage cooperative bidding efforts among school districts and, in some areas of the state, has already begun to do so. The Department has awarded five Efficiency Study Grants to study regional transportation services for 18 school districts in the Capital District, three districts in Rockland County, 18 districts in Nassau County, two districts in Monroe County, and 18 districts in the St. Lawrence-Lewis BOCES. However, the Department would agree to a State aid penalty for school districts not willing to take part in cooperative bidding efforts only after a comprehensive study of the programs funded by the grants, and assurance that the authority to impose such a penalty has statutory sanction.

- We agree with Recommendation #19. The Department does encourage school districts to include reasonable add and delete provisions in their contracts and will continue to do so. Likewise, State aid claims will be reduced accordingly when costs are not reasonable.

State Comptroller's Notes

1. We clearly explain in the introduction (page 3) and body (page 5) of the report that we visited a judgmental sample of six school districts, to review transportation contracting procedures. Also, it would be misleading to relate the number of districts we visited to all 718 school districts in New York State, because only about half of them use contracted services to transport the majority of their students. Additionally, the State Education Department's files are so poorly organized that we could not readily determine which school districts primarily contract for pupil transportation versus those school districts that primarily transport students with their own buses.

2. We amended our report to clarify the field auditor's duties.

3. The purpose of the sidebar on page 6 is to illustrate the relationship between competition and contractors' bid prices, e.g., that bid prices go down as the number of bidders goes up. It is not intended to precisely estimate the potential cost savings from increased competition on school district transportation contracts. As we indicated in the report, we were unable to calculate potential cost savings from increased competition among transportation contractors because the Department lacks sufficient data to permit such an analysis.

4. We amended our report to cite Section 103 of the General Municipal Law. Also, we disagree with the Department; the five day requirement cited in Section 103 effectively establishes a minimum time for submission of bids. Notwithstanding our disagreement, the fact remains that school districts are giving bidders too little time to respond to their bid requests. As a result, competition is discouraged and incumbent contractors gain unfair advantage. Our recommendation is for the Department to remedy this situation by regulating a reasonable minimum time period for transportation contractors to respond to bid requests.

5. We disagree with Department officials over what constitutes a contract restriction. However, we think it is important that the Department agrees to instruct school district officials to remove all restrictive clauses from their bid specifications.

6. We have reworded our recommendation to state, "The Department should require school district officials to seek competitive quotations for transportation contracts under $5,000." We believe this recommendation is appropriate, enforceable and consistent with the spirit of a 1991 amendment to the General Municipal Law passed by the State legislature as part of Chapter 413 of the Laws of 1991. The amendment raises the competitive bidding limits for public works contracts from $7,000 to

$20,000 and on commodity purchase contracts from $5,000 to $10,000. It also requires school districts to use written requests for proposals, written quotations or other methods of procurement to obtain goods and services costing less than the statutory bid limits. The Legislature's stated intent in passing this amendment was to assure the prudent and economical use of public monies, to facilitate the acquisition of goods and services at the lowest possible cost, and to guard against favoritism, fraud, and corruption. The State Education Department should have similar interests with respect to its approval of school district transportation contracts.